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ABSTRACT

This report evaluates the bilingual education policy of ten states (Arizona, California, Florida, Illinois, Massachusetts, Michigan, New Jersey, New Mexico, New York, and Texas), in which 86 percent of the nation's limited-English-proficient (LEP) students reside. The report answers frequently-asked questions about bilingual education, and summarizes the laws and rules governing bilingual education in those states. An introductory section outlines how the states' policy "grades" were determined, presents data on the number of LEP students in each of the states, and addresses general questions about bilingual education. The summaries for the ten states follow, each noting an overall "grade" for state policy, the general guidelines provided by state law and regulations, parents' rights, specific bilingual education problems, and other comments arising from the evaluation. (MSE)

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ED 421 876

# CEO POLICY BRIEF

April 1997

# Bilingual Education

## A Ten State Report Card

By Jorge Amselle

| | |
|---|---|
| Arizona | C+ |
| California | D |
| Florida | D+ |
| Illinois | F |
| Massachusetts | D- |
| Michigan | C |
| New Jersey | D+ |
| New Mexico | C |
| New York | D- |
| Texas | D+ |

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## Introduction

Language-minority students attending public schools are often ill served by their state's bilingual education laws. These students routinely are placed in programs where they spend 80 percent of their time listening to teachers speak languages other than English. The situation today bears little resemblance to the original intention of bilingual education 30 years ago, when its aim was to help Hispanic children learn to speak, read, and write in English as quickly and effectively as possible.

Today, bilingual education deliberately delays children from learning English on the mistaken assumption that children need to receive five to seven years of formal classroom instruction in their native language before they can learn English. In fact, children are much better at learning new languages than adults. Some children are enrolled in bilingual education programs even though they already speak English well enough to participate in regular classrooms. Many of these current problems can be traced back to state laws and regulations.

This CEO Policy Brief answers the most frequently asked questions about bilingual education. It also summarizes and assesses the laws and rules governing bilingual education in the 10 states with the largest numbers of limited English proficient (LEP) students: Arizona, California, Florida, Illinois, Massachusetts, Michigan, New Jersey, New Mexico, New York, and Texas. The U.S. Department of Education estimates that 86 percent of the children who need special help with English go to school in one of these 10 states, and 73 percent of these children are Spanish speakers.[1]

These laws provide a crucial understanding of how bilingual education operates in practice. Unfortunately, they often fail to serve LEP students adequately. CEO has assigned a letter grade to each of the states reviewed, determined on the basis of how conducive state laws and regulations are to the acquisition of English. This publication, which focuses on the problems with current state laws, will help researchers, reporters, and policy makers better understand of what bilingual education is all about.

## How the Grades Were Determined

In determining grades for the CEO Report Card on State Bilingual Education Laws, the following considerations were made:

- States should not mandate any one particular program to teach children who need help with English. Local schools and school districts are far better positioned to gauge the needs of specific student populations and to modify school programs according to changing community demographics and concerns. School districts

should be given maximum discretion in choosing bilingual education, ESL, or alternative programs.

- The state should monitor schools to make sure they are in compliance with current federal law, which requires that all English learners be served by a program that is based on a sound educational theory, has sufficient resources with which to work, and actually produces positive results. Schools must be held accountable for improving the English skills of language-minority students.

- If states fund special language programs, they should fund them equitably, not giving preference to one methodology over another.

- No consideration should be given to the language spoken in a child's home when that child is being considered for placement in a program. Parents should only be asked if their child speaks English and to identify their child's language if it is not English. The problem with the current prevailing policy of identifying home language, rather than a child's actual language, is that it can label children as having a home language other than English when they may only speak English, or be primarily English speakers.

- In order to place a child in a program for English learners, especially one conducted in a language other than English, children should be tested in both English and their native language. Children who score better in English than in their native language should not be placed in a language-minority program. Children should be scored using actual raw scores that evaluate the individual child's knowledge, not with percentiles on a standardized test meant to compare them with other children.

- The wishes of parents regarding the placement of their children into the regular curriculum or a program for English learners must always be honored immediately, with no questions asked. Parents should never be required to sit though meetings with school officials who have every incentive and duty to persuade parents to leave their children in bilingual programs. Children should not be placed into programs for English learners without their parents' written permission prior to such placement. Parents must also be kept fully informed of their rights regarding the program and their children's progress in school. Finally, parents must be made aware that even if they do not want their child to participate in a bilingual education program, they are still eligible to receive assistance through an alternative program.

## State Statistics

The vast majority of limited English proficiency students reside in a handful of states. Of the nearly three million LEP students reported nationwide in the1993-94 school year, 86 percent went to school in just 10 states.[2] The laws and regulations of these states are therefore the focus of this CEO Policy Brief.

| State | Laws | No. of LEP Students |
|---|---|---|
| Ariz. | No bilingual education mandate. Funds all LEP programs. | 95,011 |
| Calif. | Mandates bilingual education. Funds all LEP programs. | 1,215,218 |
| Fla. | No bilingual education mandate. Funds all LEP programs. | 144,731 |
| Ill. | Mandates bilingual education. | 99,637 |
| Mass. | Mandates bilingual education. | 44,094 |
| Mich. | No bilingual education mandate. Funds bilingual education only. | 45,163 |
| N.J. | Mandates bilingual education. | 53,161 |
| N.M. | No bilingual education mandate. Funds bilingual education only. | 79,829 |
| N.Y. | No bilingual education mandate unless receiving funds for LEP program. | 216,448 |
| Texas | Mandates bilingual education. | 422,677 |
| | Total | 2,415,969 |

## General Questions About Bilingual Education

**What types of programs are available for children who have difficulty with English?** All states are required by federal law to provide children with help in learning English if they need it. All the states in this guide also have laws requiring schools to help such children. States use several types of programs to satisfy this requirement. Although the programs sometimes go by different names, generally they can be broken down into two types: bilingual education and English as a Second Language (ESL). If a child is limited English proficient, he or she most likely will be placed into one of these two programs.

**What is "English as a Second Language"?** ESL is a program in which children receive special help learning English from a teacher trained to teach English to children who do not speak it. The teacher may or may not speak the students' native language. Children receive all instruction in English at a level they can understand. The more time children spend learning in English, the sooner they will learn it. Any program that does not make extensive use of a child's native language can be considered ESL.

**What is "Bilingual Education"?** The term "bilingual education" includes many different types of programs. In general, however, it refers to programs in which children are taught English for only part of the day, and academic subjects are taught in the students' native language. In many of these programs, children are also taught to read and write in their native language before they are taught English. The most intensive bilingual education programs will teach children in their native language for 80 percent of the school day for five to seven years before children learn English. If a child is taught in a language other than English for any part of the day, he or she could be in a bilingual education program. In general, the less time a child spends studying English, the longer it will take him or her to learn English. This can harm children's education because it delays them from entering the educational mainstream.

**Why would a school want to teach children in a language other than English?** Some people claim that children will learn English better if they are first taught in their native language for five or seven years. In fact, there are few reliable research findings to support this theory. Children can learn academic courses by being taught in English and will actually learn the language faster this way. The National Academy of Sciences' National Research Council recently completed a two-year review of the total research

into the education of language-minority children. The council concluded that, "We do not yet know whether there will be long-term advantages or disadvantages to initial literacy instruction in the primary language versus English, given a very high-quality program of known effectiveness in both cases."[3] After 30 years of government sponsored and mandated bilingual education, and virtually hundreds of studies, the best that can be said about bilingual education is that we don't know if it is helping or hurting students.

**Is all bilingual education bad for children?** Not all bilingual programs are harmful. The best way to tell a good bilingual program from a bad one is to measure the amount of time in the schoolday a child spends being taught in English. The more English that is being used, the better and faster children will learn English. Using a child's native language for a short period of time when he or she is just starting out in school can be very helpful. But it is always important for children to receive the maximum exposure to English.

**How long should ESL or bilingual programs last?** Most ESL programs last fewer than three years. A child should continue receiving help for as long as he or she needs it, however. ESL programs are designed to teach students English in no more than three years so that they can be placed in classes with all other children. Bilingual education programs do not have the same goal. The less that English is used in the program, the longer the program will last. Many supporters of bilingual education believe the best bilingual programs last five to seven years. They are wrong. This is far too long to keep children separated from English-speaking students.

**Why is it better for children to learn English sooner rather than later?** Children learn to speak new languages quickly, especially when they are very young. Therefore, it is important that they learn English as soon as possible. In addition, most scientific studies of bilingual education have shown that delaying English may harm children's education. Many bilingual education programs fail to teach children English adequately, possibly contributing to the higher dropout rates of these students. National polls have also shown repeatedly that the parents of language-minority children want their children to learn English as soon as possible. These same parents are united in their opposition to programs that excessively focus on developing their children's native language, often at the expense of learning English.[4]

**How does the school know if a child needs help with English?** Many states require schools to ask parents to identify their children's home or native language. The questions on these school's surveys are designed to encourage parents to identify their child as having a language other than

English. Many of the surveys will ask if there is a language other than English spoken in the home. If there is, then that child will be listed as having a home or native language other than English, no matter what language he or she actually speaks.

Once a child has been identified as having a non-English home or native language, he or she is given a standardized test in English. Because of the way standardized tests work, between 30 and 50 percent of all the children who take these tests will score low enough to be placed in a bilingual program, depending on the state's own cut-off score. This is true even if a child speaks only English or speaks English better than his or her native language.

These tests are actually designed so that half of all children score below the 50th percentile. The tests are supposed to be used by schools only to compare children and determine whether a child is performing above or below average in a subject. Some parents have reported that as a result of these tests, their children were placed in bilingual education programs conducted in a non-English language even though their children spoke English. For this reason, it is very important that parents make sure their children are not enrolled in a program they don't need.

**How do parents get their children out of a bilingual education program?** With the exception of Florida, all of the states in this guide are required by law to remove a child from a bilingual program upon the request of a parent or guardian. Several of the states, however, require that parents attend a parent-teacher conference or a meeting with school officials before their child can be removed from the program. The purpose of this meeting is to convince parents that the bilingual program is best for their child and that they should not remove their child. Some parents have reported that they have been intimidated by school officials at these meetings for wanting to remove their children from bilingual education programs.

**Will children be able to maintain their native language if they are not in bilingual education?** Many children maintain their native language by using it at home even if they are not in a bilingual education program in school. Being able to speak more than one language is a valuable skill, and many parents want their children to be able to speak their native language. Some parents send their children to special programs on the weekend or after school for this purpose. A few schools also have special programs that help children develop their native language while not delaying the learning of English. It is the primary role of schools, however, to help children develop the skills they will need to get a job or go to college in an English-speaking country.

# State Summaries

# Arizona Grade: C+

## Arizona State Law and Regulations: General Guidelines

All schools are required to provide either bilingual education or English as a Second Language (ESL) for each limited English proficient (LEP) student.[5] At least one Arizona court, however, has ruled that schools are not required to provide non-English speaking students with bilingual education.[6] Schools must test children in both English and their native language to determine if they are LEP.[7] Students who are not LEP may still participate in bilingual education programs if there is space available.[8]

School districts must identify the number of students with a primary language other than English through a home-language survey to be completed no later than October 1 of each year.[9] By December 1st of each year, all school districts must determine the English- and home-language proficiency of all LEP students.[10] LEP students must be reassessed to determine if they have become English proficient at least once every two years using a teacher evaluation, an objective assessment, and parental opinion and consultation.[11] School districts can keep a child in a bilingual education program for more than four years only if they show that a child needs additional bilingual education.[12]

If a student continues to be LEP after each reassessment, the program the student is receiving must be reviewed to determine if he or she is receiving proper services to acquire English proficiency.[13] For one year after a student is reclassified as English proficient, the school must review his or her progress at least twice to ensure that the student has been correctly reclassified.[14]

## Parents' Rights in Arizona

The school must determine children's primary language through a home-language survey.[15] This survey asks parents to identify the language most often used at home, regardless of what language their child speaks, the language most often used by their child, and their child's first language.[16] If the answer to any of these questions is a language other than English, the child will be tested in English and his or her primary language and may be classified as LEP if he or she scores below the 40th percentile on a standardized English test.[17]

A child's participation in either a bilingual education or ESL program is strictly voluntary; parents must be notified of such a placement.[18] If parents

do not want their child to participate in either of these programs, the parents must write a letter to the principal of the school asking that their child be removed from the program.[19] The school is still required to provide an individualized program for children who are removed from bilingual education or ESL.[20] The school must test a child's English at least every two years to determine if he or she should be reclassified as proficient in English.[21] In order to reclassify a child, the school must notify parents in the home language and give them the opportunity to review their child's performance and provide input.[22] The final decision over reclassification is up to the school, however.

## Problems with Bilingual Education in Arizona

Members of the Glendale Hispanic Forum, representing Hispanic parents, claimed harassment by school officials when they asked for copies of a survey rating the effectiveness of the Glendale Elementary School Board. Vince Ornelas, an Hispanic Forum member claiming harassment, was also the president of the Glendale League of United Latin American Citizens (LULAC) at the time. Tony Bracamonte of the Glendale Hispanic Forum stated that general dissatisfaction with the education Hispanic children were receiving, high dropout rates, and a growing gang problem had fueled discontent and fear among parents, many of whom also questioned the effectiveness of the bilingual education program. (*Arizona Republic/Phoenix Gazette*, January 27, 1993, and March 22, 1993.)

## Comments

Arizona earns high marks for leaving the decision of how to teach language-minority students to the schools, rather than mandating certain approaches. The state also funds all programs for English learners. Another strong point is that parents are guaranteed the right to remove their children from bilingual programs. Arizona falls short, however, in its classification of children as LEP. The home-language survey is not carefully constructed and may identify students as having a non-English native language even if they speak only English or speak English as their primary language. The cut-off score currently used (40th percentile) to classify children as LEP on standardized English tests guarantees that 40 percent of all children taking the test will be deemed eligible for placement in a bilingual program regardless of their actual English language skills.

# California Grade: D

## California State Law and Regulations: General Guidelines

The status of California bilingual education law is a matter of some debate. The California statutes mandating bilingual education were allowed to sunset on June 30, 1987. The Legislature did allow for continued funding of the bilingual program for the "general purposes of that program as specified in the provisions relating to the establishment and operation of the program...but all relevant statutes and regulations adopted thereto regarding the use of the funds shall not be operative...."[23] The California Department of Education has interpreted this section of the Code to allow them the full regulatory authority of the old statute. The California Office of Administrative Law Determination has issued an opinion agreeing with the State Department of Education's interpretation.[24] It is CEO's belief that this interpretation is wrong and that there is no legal mandate for bilingual education in California. In fact, the new Code specifically states that the only penalty for failure to comply with "the purposes of the funds apportioned" is a termination of funding.[25]

Under the state's interpretation, all California schools must offer bilingual education (instruction in the native language) to every limited English proficient (LEP) student in kindergarten through grade 12; English as a Second Language (ESL) programs, however, are permitted under certain circumstances.[26] At least one California court has found that schools are under no federal or state obligation to provide native-language instruction, and this ruling is consistent with rulings in other states on this issue.[27] These ESL programs, unless it is an individualized program, must contain primary language instructional support.[28] Schools having at least 10 LEP students who speak the same primary language in the same grade must offer those students a bilingual education program.[29] Schools may be excused from the native-language reading requirement, but not oral native language development, if they can show that there is a lack of available materials in that language.[30] Recently the California Department of Education has given three school districts waivers from the native-language requirements, eliminating existing bilingual programs and allowing alternative programs.[31]

Schools must assess each student's English skills within 30 days of initial enrollment and report the results to the state no later than April 30 of each year.[32] Schools also must assess each student's primary language skills within 90 days from initial enrollment.[33] The academic progress of LEP students must be assessed annually in English or in the student's native language.[34] Schools may reclassify LEP students as proficient in English if the student meets certain criteria, which include continued monitoring, consultation of teachers and parents, consent of parents, and at least three years of bilingual instruction.[35]

Whenever possible, neither more than two-thirds nor less than one-third of the students in a bilingual education class may be LEP. The rest must be English proficient.[36] The purpose of this is to avoid segregating language-minority students, but an enormous loophole makes this goal all but impossible to achieve. Bilingual education classes may in fact be made up entirely of LEP students as long as at least 20 percent of their schoolday is spent in classes that meet the proportions described above.[37]

## Parents' Rights in California

When the school assesses a child's English, it must notify parents of the results in English and in their child's primary language.[38] If parents disagree with the results, they may demand that the school reassess their child, which it must do within 30 days.[39] Before enrolling a child in a bilingual education program, the school must notify parents in English and in their child's native language that the program is voluntary and of their right to remove their child from the program.

To withdraw children from the program, parents must submit a signed written request to the principal of their child's school.[40] Schools then must withdraw the child from bilingual education programs either at the time he or she is first placed in the program or at the end of any subsequent semester.[41] If the school wishes to reclassify children as proficient in English, it must inform parents of the decision in English and in their child's primary language. It must also let them know of their legal right to challenge the decision and must also obtain the parents' consent for the reclassification.[42]

A child's participation in any bilingual education program, whether he or she is LEP or English proficient, is voluntary.[43] Parents of English-proficient students whose children have been selected for participation in a bilingual program must give their consent, and their children must be provided English-only instruction if the parents do not consent to the bilingual program.[44] Each school with 20 or more LEP students and each school district with 50 or more LEP students must establish a school advisory committee made up of the parents of LEP students.[45]

## Problems with Bilingual Education in California

Hispanic parents in Los Angeles' Ninth Street School kept their children out of school for almost two weeks to protest the lack of English instruction in their school's bilingual education program. The school had refused to honor parents' requests for their children to be removed from the bilingual program. Many parents felt that the program had failed to adequately teach English to their older children or prepare them for high school. The school eventually agreed to provide more English classes for students. (*Los Angeles Times*, February 14, 1996.)

## Comments California

California receives low marks for its insistence on mandating an educational technique (bilingual education) that a state oversight agency has labeled as "divisive, wasteful, and unproductive."[46] This same agency found that the number of students exiting bilingual education programs had decreased while the number of students in the program had more than doubled. Thus California is clearly failing to monitor the efficacy of its preferred program. The state does redeem itself by giving parents control over their child's participation in bilingual programs. It should be noted, however, that several parents have expressed difficulty in exercising their legal rights, which may indicate that some school districts are ignoring this section of the law. Another major problem is that the actual status of California's laws and regulations governing bilingual education is not entirely clear.

# Florida Grade: D+

## Florida State Law and Regulations: General Guidelines

All programs for English learners in Florida are governed by a combination of legislative statute, agency regulations, and a consent decree between the state and various activist organizations. There is no mandate for any particular program, only a requirement that either home language (bilingual education) or ESOL (English for Speakers of Other Languages) instruction be provided.[47]

All students are surveyed upon their initial enrollment in the school to determine if they have a home language other than English.[48] Students who indicate a preference for a language other than English are placed into an ESOL or Home Language program and assessed to determine if they are limited English proficient (LEP) within 20 school days (four weeks).[49] Students in grade four and below who score within the limited English proficiency range on an aural/oral language proficiency test remain in the LEP program. Students in grade four and above who score below the 32nd percentile on a standardized English exam—given 20 school days (four weeks) after the aural/oral exam—are classified as LEP and remain in the program.[50] Students in grade four and above who have a home language other than English and are not LEP can remain in a program for LEP students for as many as 40 school days (eight weeks) before they are reclassified and properly placed. The initial assessment must be completed within four weeks of a student's enrollment unless a clear reason for the delay can be documented.[51]

LEP students who become English proficient must receive periodic reviews to ensure that they are keeping up in mainstream courses. Former LEP students who are consistently under performing may be reclassified as LEP and placed in an appropriate program after consultation with an LEP

committee made up of education professionals.[52] Students also must be given credit toward fulfilling graduation requirements for subjects taken in an ESOL or home language course.[53]

All LEP students participating in an ESL program must have access to an individual who is proficient in their native language in addition to a trained ESOL teacher. If there are at least 15 students who speak the same language in a school, they must be provided with an aide or teacher proficient in their native language and trained to assist in ESOL instruction.[54] The Florida Department of Education is also required to monitor the effectiveness of programs for English learners. It must make sure that LEP students are learning English within a reasonable period of time.[45] (This time period is not defined.) School districts must submit to the state their planned program for English learners, including evidence of consultation with the district's Parent Leadership Council or other parent advisory body representative of the parents of LEP students.[56]

## Parents' Rights in Florida

Parents do not have the right to remove their children from bilingual education. They, however, must be notified of their child's classification as LEP in their native language no later than eight weeks after the initial enrollment of their child and of their opportunity to participate in recommending a program for their child.[57] State statute requires that school districts implementing the required program for English learners provide for parental involvement.[58] Parents have the right to ask that an LEP committee review their child's classification or non-classification as LEP and have their preference considered.[59] Parents may also request that an LEP committee review their child's progress in the program and any special problems that may be hindering their child's progress.[60]

School districts must promote parental involvement through the use of Parent Leadership Councils at each school or at the district level composed of a majority of parents of LEP students. Parents must be informed of the program procedures and of their opportunity to be represented on school and district advisory committees, and must be consulted prior to the submission of LEP district plans to the state.[61] Also, all communication between the school and school district and the parents of LEP students is conducted in the parents' primary language.[62]

Students who are reclassified and fluent in English must be reviewed semi-annually the first year after the student leaves the LEP program. If students are under-performing, the LEP committee will re-assess them with parental participation and special consideration to parental preference.[63] Parents do not have the final say in determining the classification of their children as LEP or the type of program in which they are placed; the final decision remains with the school.[64]

## Problems with Bilingual Education in Florida

Children in bilingual education programs are not being taught English. According to Trini Jimenez, head of the English for Speakers of Other Languages (ESOL) program at West Tampa Elementary, "We've had children come in who don't speak any English at all. And the reason is that they've been in these bilingual programs that teach only Spanish. I get their transcripts, and even they are in Spanish." *Tampa Tribune*, October 1, 1995.

## Comments

Much to its credit, Florida has no mandate for bilingual education, and, in fact, most programs for English learners in this state are ESOL. Most of the programs that are bilingual are largely English intensive and not "true" bilingual education. The state also funds all programs regardless of methodology and holds schools accountable to teach English in a timely manner. Florida fails, however, in the area of percentile scoring to identify students as LEP, although it does use the lowest criteria of any of the states reviewed (the 32nd percentile). Nevertheless, at least 32 percent of all children who take a Florida standardized English test are guaranteed to score low enough to be considered LEP regardless of their actual English language skills. Another area of concern is that Florida's consent decree requires that children with a home language other than English be placed into LEP programs for as long as eight weeks before they are actually tested to determine if they belong in these special programs or not. Most problematic, however, is the issue of parental choice over program type. This is the only state studied here that does not give parents the right to remove their child from a bilingual education program.

# Illinois Grade: F

## Illinois State Law and Regulations: General Guidelines

All students who are limited English proficient (LEP) must be served by either a transitional bilingual education program or a transitional program of instruction.[65] A transitional bilingual education program is defined as a program in which children receive their academic instruction in their native language, are taught to read and write in their native language, and are taught English.[66] A transitional program of instruction is defined as a program that only provides native-language instruction as needed for children to achieve a rapid transition to the regular curriculum.[67]

Any school that has 20 or more LEP students of a single language group must establish a transitional bilingual education program.[68] Schools may, when necessary, combine children of different ages and grades into one class

in order to establish a bilingual education program, but must still ensure that each child is receiving instruction appropriate to his or her grade level.[69] Any school with fewer than 20 LEP students of a particular language group may institute a bilingual program but must at the minimum institute a transitional program of instruction.[70] Children remain in transitional bilingual education programs for three years or until they learn English, whichever comes first, but they may not be kept in the program for more than three years without parental consent.[71] The English skills of children in the bilingual program must be tested annually, and no child may be transferred from the program in under three years without parental consent and a passing score on the English test.[72]

By the first day of March each year, school districts must determine the number of LEP children in the district and their achievement level.[73] School districts are required to conduct a home-language survey, in English and the student's home language, of each student entering their district for the first time.[74] This survey requests the language used in the home and the language of the child.[75] If either of these is a non-English language the child is tested in English within four weeks of enrollment.[76] All children who score below the 50th percentile on this test shall be considered LEP and eligible for bilingual education services.[77] Even if a child scores above the 50th percentile, he or she may still be considered LEP.[78]

## Parents' Rights in Illinois

The school must notify parents, in English and in their child's home language, of their child's enrollment in a bilingual program within 10 days after the child is enrolled in the program.[79] This notice must inform parents of their right to visit the program, their right to set up a conference to discuss the program, and their absolute right to remove their child from the bilingual program.[80] Parents who wish to remove their child from the bilingual program must submit a written request to the school and meet with school officials to discuss the program.[81] School officials probably will use this meeting to try to persuade parents to keep their children in the program.

Bilingual programs are not meant to last more than three years, and children may only be kept in a bilingual program for more than three years with parental consent.[82] Children may not be removed from a bilingual education program prior to three years without parental consent.[83] Each school district must establish a parent advisory committee made up of the parents of children in the bilingual program, bilingual education teachers, counselors, and representatives from community groups, but parents must form the majority of the committee.[84] The purpose of these committees is to ensure that the bilingual education programs are operated with the

involvement of parents. The school makes all final determinations regarding the program, however.

If a child has not been classified as LEP, parents may request that the school test their child to determine if he or she is LEP.[85] Parents who disagree with a school's classification of their child may appeal to the Superintendent of their Educational Service Region.[86] Schools must send parents regular report cards of their child's progress in the program in English and in their child's native language.[87]

## Problems with Bilingual Education in Illinois

Bilingual education programs in Chicago fail almost 80 percent of the time to get students into mainstream classes within the established three-year limit. Some of these students spend their entire 12 years in school without ever learning enough English to get out of the bilingual program. According to Chicago School Board President Gery Chico, "Too many kids are taking too long." More than 20 percent of students in Chicago bilingual education programs remain in the program for more than six years, and almost a third of all students are removed from the program by their parents. (*Chicago Sun-Times*, May 12, 1996.)

## Comments

Illinois enjoys the dubious distinction of having, arguably, the worst bilingual education laws in the United States. There is a strict mandate for native-language instruction. Students who come from a home where anyone ever uses a language other than English are given a standardized English test regardless of the student's actual English ability. Children must score higher than the 50th percentile to avoid being placed in a bilingual program—a difficult standard considering that at least 50 percent of children taking this test will, by definition, score below the 50th percentile. By using such a lax definition of native language and the 50th percentile as the cutoff score—higher than any other state—Illinois virtually guarantees that English-speaking students will be placed in bilingual programs, not to mention LEP students who would benefit from English-language instruction. Even worse, the state makes it difficult for parents to remove their children from harmful bilingual education programs. Parents should not be forced to meet with school administrators whose job is, essentially, to intimidate and harass parents into leaving their children in the program.

# Massachusetts Grade: D-

## Massachusetts State Law and Regulations: General Guidelines

Each school committee must by March 1 each year conduct a census of the number of limited English proficient (LEP) children in the district using personnel able to communicate in the home language of the children being counted.[88] LEP children must be individually evaluated every year by the teacher in charge of the bilingual program before they can be placed in the program.[89]

Any school district with 20 or more LEP students of any grade level and of a particular language group must offer a program of transitional bilingual education for the students.[90] No school may place LEP children of different language backgrounds in the same bilingual program without the approval of the state Department of Education.[91] Bilingual education programs may include English-proficient children, however.[92] Multigrade classrooms are allowed, but the age spread between students cannot exceed four years, except for kindergarten, in which case the age spread cannot exceed one year.[93]

Transitional bilingual education programs must be designed to teach students English within the three-year transitional period.[94] For courses in which the native language is not necessary, LEP children must participate fully with their English-speaking counterparts.[95] The state board of education may, upon petition from a school committee, waive any of these requirements in a particular school district for such a time as is necessary to avoid undue hardship to that district.[96]

## Parents' Rights in Massachusetts

No more than 10 days after the enrollment of a child in a bilingual education program, the school must notify the child's parents in English and in their native language that their child has been placed in this program.[97] The notice must inform parents of their absolute right to remove their child from the program by simply submitting a written request to the school authorities.[98] Parents may remove their child from the program anytime within the first month after being notified, at the beginning or end of a semester, or with the permission of a qualified teacher of transitional bilingual education.[99]

No child may be kept in a bilingual program for more than three years, or removed from such a program prior to three years, without parental consent.[100] Children may be removed from a bilingual program after three years without parental consent and may be re-enrolled in a bilingual program

if they are still in need of assistance.[101]

The school must send to parents in English and in their native language reports of their children's progress.[102] Parents also have the right to see their children's individual school records and to have a conference with a Bilingual Education teacher to discuss the program and their child's progress in school.[103] Every school that offers a bilingual education program must establish a Parent Advisory Committee made up of the parents of LEP students to advise the school on the program.[104]

## Problems with Bilingual Education in Massachusetts

State Department of Education officials admitted that they are unsure if bilingual education programs are working as well as they should in teaching children English. Students and administrators involved with the program also have expressed serious concerns about whether bilingual education works. (*Sunday Telegram* (Worcester), November 17, 1996.)

Parents of students needing help with English expressed their support for a proposal by Quincy school officials to end bilingual programs and instead focus on intensive English instruction. (*The Patriot Ledger*, June 18, 1996.)

Bilingual education programs in Boston are isolating students in segregated educational ghettos and failing to meet their linguistic or academic needs. Students in the bilingual program have dropout rates of 39 percent, higher than the area average. According to Alfredo Nunez, principal of the Agassiz Elementary School, "The isolation of students within a school perpetuates a second-class citizen mentality that produces a sort of feeling of being in a ghetto." Piedad Robertson, president of Bunker Hill Community College said, "The consequences are students that come to college basically illiterate in two languages...what we are doing is handicapping kids." (*Boston Globe*, May 20, 1991.)

## Comments

Massachusetts may boast of being the first state to mandate bilingual education in public schools, but is it also among those states having the worst laws. This mandate forces school districts to establish "bilingual education" programs that exist on paper only. The reason is that the law is so poorly drafted that most school districts could never establish the programs mandated. A school district is technically required to have a native-language program if it has 20 students speaking a single language, regardless of their actual grade level or geographic location. All attempts to change this law have been defeated. The only positive aspect of Massachusetts law is that it guarantees the right of parents to remove their children from this program.

# Michigan Grade: C

## Michigan State Law and Regulations: General Guidelines

School districts are no longer required to provide a bilingual program of instruction.[105] The state, however, has allocated funds ($4.2 million for 1996-97), which can only be used for bilingual programs to provide instruction to limited English proficient (LEP) students.[106]

School districts must identify potential LEP students through a home-language survey.[107] Students may be classified as LEP and eligible for bilingual education programs through either a consultation between the school and the parents for grades K-2, or if the student scores at or below the 40th percentile on a standardized English test in grades 3 through 12.[108] A student who was previously ineligible is considered to be LEP if he or she subsequently scores at or below the 40th percentile.[109] Eligibility for a bilingual program must also be based on scores of tests taken within the past six months.[110]

## Parents' Rights in Michigan

Before children can be placed in a bilingual education program, the school must notify parents in English and in their child's primary language that their child will be placed in the program.[111] Parents must also be notified of their right to visit the program and their absolute rights (1) to refuse to place or (2) to remove their child from the program by giving written notice to their local school board.[112] If a district does not offer a bilingual education program, parents may enroll their children in a bilingual program in a different district.[113]

## Problems with Bilingual Education in Michigan

The Dearborn, Mich., school district withdrew its bid for $5 million in federal funding for bilingual education because of complaints by board members and residents that the program has not been proven to improve the education of non-English speaking children. (*Detroit News*, June 28, 1995.)

## Comments

Michigan only recently eliminated its mandate for bilingual education and earns high marks for taking this positive step. Altruism may not have been the motivating factor behind this change, however. The state recently lost a lawsuit (*Durant* v. *Department of Education*), which forces it to pay school districts for all state-mandated programs. Michigan's language-minority children only accidentally benefited from what may have, in fact, been a cost-

cutting measure. Michigan also scores well in the area of parental rights, but falls short for its reliance on percentile scores to classify children as LEP as well as funding only bilingual education programs to the exclusion of proven alternatives.

# New Jersey Grade: D+

## New Jersey State Law and Regulations: General Guidelines

Any school district in New Jersey with 20 or more limited English proficient (LEP) students of any one language group is required to establish a bilingual education program.[114] This requirement may be waived if a school district can establish that due to the age range, geographic location, or grade span of the LEP students, a full-time bilingual program would be impractical.[115] The school district would still be required to implement a special alternative instructional program to serve these students.[116]

School districts with fewer than 10 LEP students must provide services to improve the English language proficiency of those students.[117] When there are more than 10 LEP students within a school district, the district must establish an English as a Second Language (ESL) program.[118] All LEP students must be enrolled in one of the above programs and may be placed in regular English monolingual classes when they are ready to function in such a program.[119]

Students in bilingual education programs in New Jersey are entitled to participate in those programs for three years.[120] This suggests that the Legislature intended that bilingual programs transfer students to the regular curriculum within three years.

## Parents' Rights in New Jersey

The New Jersey Legislature enacted several changes in the state's bilingual education laws in 1995. These changes, which greatly improve the rights of parents and allow the state Department of Education to issue school districts waivers from the bilingual education mandate, went into effect July 1, 1996. Parents in New Jersey now have an absolute right to remove their children from harmful bilingual education programs.

Upon the enrollment of a child in a New Jersey school, the school district is required to determine that child's "native language."[121] The native language of a child is defined as "the language most often spoken by the pupil, or in the pupil's home regardless of the language spoken by the pupil."[122]

Children who have a "native language" other than English are tested in English and are classified as LEP if they score below a state-established cutoff and have one other indicator of language difficulties.[123]

Schools are required to notify parents in English and in their native language if their child has been identified as eligible to participate in, or deemed ready to be removed from, a bilingual education program.[124] This notice must inform parents of their right to decline the enrollment of their child in the program and give parents the opportunity to inform the school that they don't want their child in the bilingual education program.[125]

During the first three years of a child's participation in a bilingual education program, parents have the right to remove their child only at the end of a school year. After that, parents have an absolute right to remove their child from a bilingual education program at any time.[126] Parents who want to remove their children from a bilingual program prior to the end of the school year must obtain the approval of the county superintendent of schools.[127] This decision may be appealed to the state commissioner of education who will make the final determination within 30 days of the filing of the appeal.[128]

The school may remove a child from a bilingual program once it feels that he or she has learned English.[129] Parents who disagree with the school's decision to remove their child from the bilingual education program may appeal that decision to the commissioner of education, who will make the final decision.[130] Schools are required to assess children's progress in the program at least annually and to determine if they are ready to exit the program.[131] The school also must send parents regular reports in English and in their native language of their child's progress.[132] Each school district that implements a bilingual program also must establish a parent advisory committee on bilingual education to allow for parental involvement in the program.[133]

## Problems with Bilingual Education in New Jersey

The state Department of Education launched an investigation into allegations that City of Passaic schools were placing Hispanic children into classes for the mentally retarded rather than in classes for English learners. (*The Record*, September 15, 1996.)

Sandra Bautista, a sophomore at West Windsor High School, testified before the state Senate that she had been forced to attend ineffective bilingual education classes. "I came to the United States to learn English, not Spanish." Bautista said, complaining about the emphasis on Spanish instead of English in bilingual programs. (*The Record*, November 2, 1994.)

At the February meeting of the Princeton Regional School Board, Hispanic parents complained that the bilingual education program

discriminated against and segregated their children, while students from non-Spanish language groups were placed into more effective English as a Second Language (ESL) programs. Hispanic parents wanted their children to learn English quickly, but the bilingual program was delaying their children's English education for years. Despite the wishes of these parents, Joseph Ramos, co-chairman of the New Jersey Bilingual Council, spoke against parents being allowed to remove their children from bilingual programs. "Why would we require parents unfamiliar with our educational system to make such monumental decisions when we as bilingual educators...are trained to make those decisions?" he asked. (*Washington Times*, October 12, 1994.)

## Comments

New Jersey earns low marks for mandating bilingual education programs, although waivers are fairly easily available to school districts. New Jersey also fails in that it is the only state in this guide that specifically allows for children to be classified as having a native language other than English regardless of what language a student actually speaks. The state does, however, guarantee the rights of parents to remove their children from bilingual programs and requires regular reviews of children's progress in the program.

# New Mexico Grade: C

## New Mexico State Law and Regulations: General Guidelines

New Mexico state law establishes bilingual education programs as a local option, not a mandate. Both bilingual education and English as a Second Language (ESL) are recognized as legitimate programs, but only bilingual education programs can receive state funds.[134]

Students must be tested to determine their home language upon enrollment in the school. The home-language survey is designed to identify students who can communicate in, or most often use, a language other than English.[135] If the home-language survey indicates a language other than English, that child is tested in both English and in the home language. Children who score below the test publisher's cutoff score for English proficiency are classified as limited English proficient (LEP).[136] Students who speak little or no English are tested for academic achievement in their home language. Students with a home language other than English but who are considered fully English proficient may still qualify for bilingual programs if their academic achievement score is below the 40th national percentile rank.[137]

To qualify for state funding, bilingual education programs must use two languages as media of instruction and provide literacy skills in both, one of which must be English.[138] All state programs for English learners must be reviewed at regular intervals by the school board, the State Department of Education, and a parent advisory board.[139] This evaluation should include students' achievement in English and in the home language.[140]

## Parents' Rights in New Mexico

Each school district is required to have a parent advisory committee that represents the languages of the students and assists in the development, implementation, and evaluation of the district's program for English learners.[141] All parental wishes regarding the implementation of the guidelines for the program must be honored.[142] According to the state Department of Education, this means that parents have the right to remove their children from bilingual education programs.[143]

New Mexico's guide for compliance also states that schools must notify parents in a language they can understand of the educational needs and progress of their children. Prior to placing a student in a program for English learners, the school must notify parents in writing of the benefits being offered, their program options, their right to visit the program, and their right to withdraw their child from the program. School districts must withdraw a student from a program upon receipt of a written request from a parent.[144] The school district, however, is still required to provide limited English proficient students not enrolled in a bilingual education program with assistance in meeting their academic and English-language needs.

## Problems with Bilingual Education in New Mexico

Hispanic students in the bilingual education program at New Mexico's Los Lunas High School walked out of school to protest the lack of English tutoring and library time. (*Santa Fe New Mexican*, December 7, 1995.)

## Comments

Although it does not have a mandate, New Mexico gets low scores for only funding bilingual education programs and not other programs for English learners. This funding practice encourages schools to make educational choices based on economic incentives rather than program effectiveness. The state also allows for the placement of children with non-English home languages into bilingual programs even if they are classified as

English proficient based on standardized tests. The purpose of this clearly is to enlarge the pool of students eligible for the program and to promote the expansion of bilingual education. Although the state Department of Education does think that parents have the right to chose their child's program, these rights are not clearly defined in state law.

# New York Grade: D-

## New York State Law and Regulations: General Guidelines

School must perform a diagnostic screening of all new pupils, including a home-language survey, to determine if they have special needs.[145] Students who speak a language other than English and score at or below the 40th percentile on an English language test are classified as limited English proficient (LEP) and enrolled in a bilingual education or English as a Second Language (ESL) program.[146] Each school district receiving state funds for programs for English learners, which has 20 or more LEP students in the same grade level assigned to a building with the same native language, must have a bilingual education program.[147]

New York schools may not keep children in programs for English learners for more than three years, but the state commissioner of education may extend that period with respect to individual students for no more than six years total.[148] School districts that receive state funds for the education of LEP students must establish either a bilingual education or an ESL program in accordance with the commissioner's regulations.[149] School districts not receiving funds must still provide, at a minimum, ESL instruction.[150]

All LEP students' proficiency in English must be measured annually to determine if the student should remain in the program.[151] Students who have been moved to a regular program from an LEP program may still receive native-language instruction.[152]

New York City is operating its program for English learners under a consent decree signed by the city.[153] This agreement requires the city to test every Spanish-speaking and Spanish-surnamed child's English- and Spanish-language ability regardless of whether he or she actually speaks any Spanish. Because of this agreement and the commissioner's regulations, Spanish-surnamed students who are English monolingual and score at or below the 40th percentile on an English test are occasionally placed in bilingual education classes taught in Spanish.

## Parents' Rights in New York

The school must notify parents if their child is placed in a program for English learners.[154] This notification must be in English and in a language the parent can understand.[155] The notification must inform parents of their option to withdraw their child from the bilingual education program but only after meeting with the school principal and the district supervisor of bilingual education.[156] This meeting is used to "discuss and explain further the nature, purposes, educational values of the program and the skills required of personnel."[157] The clear purpose of this meeting is to persuade parents to leave their children in a bilingual program.

At a minimum, children must be served by an ESL program.[158] The school must also notify parents of their option to transfer their child to another school within the district that offers bilingual education if they prefer this program and if it is not offered by their local school.[159]

## Problems with Bilingual Education in New York

Hispanic parents in New York City sued the state to get their children out of bilingual programs. Parents' complaints included: children were kept in the bilingual program for more than six years; many of the teachers spoke no English; several children had been placed in the program even though they spoke English; after several years in the program their children were still unable to read or write in either language; school officials had failed to evaluate their children or to notify parents about their children's progress; and when parents complained they were harassed by school officials. (*New York Times*, February 3, 1996.)

## Comments

New York doesn't mandate bilingual education in the strictest sense, but it does use state funds to force school districts to implement bilingual programs. The state also earns low marks for using standardized tests scores to place children in bilingual programs. Standardized tests are poor measurements of children's actual knowledge. A certain percentage of children taking the test are guaranteed to score below the cutoff—usually the 40th percentile. Parents in New York City have complained that their children scored below the 40th percentile and were placed in bilingual programs even though their children only spoke English, or predominantly spoke English. New York also forces parents to meet with school officials—whose job it is, essentially, to intimidate and harass parents into leaving their children in the program—before they can remove their children from bilingual programs.

# Texas Grade: D+

## Texas State Law and Regulations: General Guidelines

Texas state policy guarantees the rights of all students to "become competent in speaking, reading, writing, and comprehending the English language."[160] Students must be evaluated within the first four weeks of school to determine if they lack English proficiency. Any school district with 20 or more limited English Proficient (LEP) students in the same grade level "in any language classification" must establish a bilingual or special language program, usually English as a Second language (ESL).[161] The state Department of Education's Office of Bilingual Education interprets "any language classification" as referring to a single language group.[162]

According to state statutes, school districts are required to offer bilingual education to LEP students in kindergarten through grade 6, both bilingual education and ESL in grades 7 and 8, and ESL for high school LEP students.[163] According to the state Department of Education, the bilingual program requirement only affects students from pre-kindergarten to grade 5. Grade 6 is included only if it is clustered with the lower grades in the school.[164] Districts are also allowed to provide bilingual education at all grade levels and must provide all LEP students with at least ESL regardless of native language, grade level, or number of students.[165]

Districts are exempted from providing bilingual education if they can establish they do not have sufficient numbers of bilingual education teachers. Yet they must still provide other kinds of assistance to LEP students.[166] Districts may move children out of special language programs once they are determined to possess sufficient English skills as determined by test scores and other factors, but districts are not required to do this.[167] Moreover, students may not be transferred out of a bilingual or ESL program in pre-kindergarten through first grade.[168] If later evidence shows that students who were transferred still need assistance in English, they may be transferred back.[169]

Schools are required to place LEP students in bilingual or ESL programs at their grade level and must allow students to show academic proficiency by being tested in either English or their home language.[170] Academic courses taken in bilingual or ESL programs may involve the use of the student's native language and may not impede the awarding of credit toward graduation.[171] All districts are required to assess the impact of their bilingual and/or ESL programs and measure student outcomes in all subject areas. These reviews must be done annually and include the academic progress made by students in both languages, their progress toward English proficiency, and the number of students who have exited from the programs.[172]

## Parents' Rights in Texas

School districts must receive permission from parents to place their child in bilingual education or ESL, or to remove their child from the program.[173] Parents also have the right to appeal any decision the school district makes regarding their child and bilingual or ESL programs.[174] School districts must conduct a home-language survey within four weeks of the first day of school to determine the language most often used by the student.[175] Surveys for students in grade 8 and below must be signed by a parent, but students in high school can sign the home-language survey themselves.[176]

Students who most often use a language other than English or who come from homes where a language other than English is most commonly used are tested for their proficiency in English. Students who score below the 40th percentile in a standardized test may be classified as LEP.[177] If the student is classified as LEP, the language proficiency assessment committee must notify parents within 10 days in English and in the parents' primary language of their child's classification and request approval to place their child in a bilingual or ESL program.[178] Parents must be informed about the benefits of the bilingual or ESL program and told "that it is an integral part of the school program."[179]

Once a parent approves the placement of their child in a program, the child will continue in the program until the school decides to transfer the student to a regular English curriculum or until the parent asks for a change of program.[180] If parents fail to respond, children may be placed in the language program without parental consent.[181] Schools are required to inform parents in English and in the home language every year of their child's progress in the program.[182]

## Problems with Bilingual Education in Texas

Some bilingual education teachers have expressed doubts about their program. According to teacher Jo Ann Acosta, "I've felt a little insecure this year, wondering if I should be teaching more in English." Acosta's students spend more than 80 percent of their day learning only in Spanish. Many parents also have expressed their concern that their children are not learning English, and some parents have removed their children from the program, according to Maria Seidner of the Texas Education Agency. (*Austin American-Statesman*, November 19, 1995.)

The Houston Independent School District was investigated for hiring teachers from Mexico for its bilingual education program. Dozens of these teachers had falsified credentials, were working in violation of immigration laws, had cheated on competency exams, and were unqualified to teach. School employees were also being investigated for allegedly destroying the transcripts of several of these teachers in order to conceal evidence. (*Houston Post*, October 4, 1994 and August 27, 1994.)

## Comments

Texas scores poorly due to its bilingual education mandate and its use of unreliable home-language surveys and standardized tests scores to identify students as eligible for the program. The home-language survey is not carefully constructed and may identify students as having a non-English native language even if they only speak English or speak English as their primary language. Standardized tests are poor measurements of children's actual knowledge. A certain percentage of children taking the test are guaranteed to score below the cut-off—usually the 40th percentile.

Texas does have strong parental rights laws requiring schools to get parental consent prior to placing students in native-language or other English-learner programs. It also allows parents to remove their children from the program. The removal procedure is not specified, however, and that can lead to problems. Another positive aspect is that schools are required to assess the efficacy of their English-learner programs annually. One major problem in Texas is the attitude of people like Maria Seidner, director of bilingual education for the Texas Education Agency. Speaking at a press conference in Washington, D.C. on January 23, 1997, she admitted that it was the policy of her office to tell school districts to place Hispanic students in bilingual education programs even if they were proficient in English.

Nothing written here is to be construed as necessarily reflecting the views of the Center for Equal Opportunity or as an attempt to aid or hinder the passage of any bill before Congress.

## NOTES

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18 ARIZ. REV. STAT. ANN. § 15-752 (C).

19 ARIZ. REV. STAT. ANN. § 15-752 (C).

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26 CAL. EDUC. CODE. § 52161; CAL. CODE REGS. TIT. 5, § 4301(B).

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## Notes continued

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39 CAL. CODE REGS. TIT. 5, § 4308 (A).

40 CAL. EDUC. CODE § 52173 (B); CAL. CODE REGS. TIT. 5, § 4308 (B) (C).

41 CAL. EDUC. CODE § 52173 (B).

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43 CAL. EDUC. CODE § 52161; CAL. CODE REGS. TIT. 5, SECTION 4307 (A); 64 OP. ATT'Y. GEN. NO. 373, 4-30-81.

44 CAL. CODE REGS. TIT. 5, § 4308 (C) (E).

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46 MILTON MARKS COMMISSION ON CALIFORNIA STATE GOVERNMENT ORGANIZATION AND ECONOMY, "ASSESSMENT OF BILINGUAL EDUCATION AND ENGLISH LEARNERS," (JULY 1993).

47 FLA. STAT. ANN. CH. 233.058(3)(D).

48 FLA. ADMIN. CODE ANN. R. 6A-6.0902(1).

49 FLA. ADMIN. CODE ANN. R. 6A-6.0902(2)(A). AND, MEMORANDUM FROM BERNARDO GARCIA, DIRECTOR OFFICE OF MULTICULTURAL STUDENT LANGUAGE EDUCATION, FLORIDA DEPARTMENT OF EDUCATION, JULY 15, 1994. THIS MEMO UPDATES THE CONSENT DECREE, LULAC V. STATE BOARD OF EDUCATION BASED ON AN OFFICIAL COMPLAINT BY META, SPECIFICALLY REQUIRING THE STATE TO PLACE STUDENTS INTO LEP PROGRAMS THEY MAY NOT NEED AND ALLOWING THEM TO LANGUISH THERE FOR AS LONG AS EIGHT WEEKS BEFORE TESTING THEM TO SEE IF THEY BELONG THERE OR NOT.

50 FLA. ADMIN. CODE ANN. R. 6A-6.0902(2)(A)(1)(2).

51 FLA. ADMIN. CODE ANN. R. 6A-6.0902(2)(D).

52 FLA. ADMIN. CODE ANN. R. 6A-6.0903(2)(A)(C).

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54 LULAC V. STATE BD. OF EDUC., CONSENT DECREE, U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, AUGUST 14, 1990. AGREEMENT, § II (E)(3) (AUGUST 14, 1990). (HEREINAFTER REFERRED TO AS "LULAC AGREEMENT.")

55 LULAC AGREEMENT, § VI (E)(1)(A).

56 LULAC AGREEMENT, § II (B)C.

57 FLA. ADMIN. CODE ANN. R. 6A-6.0902(2)(D)(2)(G).

58 FLA. STAT. ANN. CH. 233.058(3)(H).

59 FLA. ADMIN. CODE, CH. 6A-6.0903(1)(B); LULAC AGREEMENT, § I C (2)C.

60 FLA. ADMIN. CODE, CH. 6A-6.0902(3)(C), AND 6A-6.0904(2)(E).

61 FLA. ADMIN. CODE, CH. 6A-6.0904(7); LULAC AGREEMENT, § II (H)(1)(2).

62 FLA. ADMIN. CODE ANN. R. 6A-6.0904(7)(C); LULAC AGREEMENT, § III (J)(1).

63 FLA. ADMIN. CODE ANN. R. 6A-6.0903(2)(A).

64 E-MAIL FROM STEVE BEST OF THE DEPARTMENT OF EDUCATION, STATE OF FLORIDA, TO JORGE AMSELLE. MONDAY, NOVEMBER 26, 1996.

65 ILL. REV. STAT. CH. 105, ¶ 5/14C-3.

66 ILL. REV. STAT. CH. 105, ¶ 5/14C-2 (F).

67 ILL. REV. STAT. CH. 105, ¶ 5/14C-3.

68 ILL. REV. STAT. CH. 105, ¶ 5/14C-3.

69 ILL. REV. STAT. CH. 105, ¶ 5/14C-6.

70 ILL. REV. STAT. CH. 105, ¶ 5/14C-3.

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71 ILL. REV. STAT. CH. 105, ¶ 5/14C-3.

72 ILL. REV. STAT. CH. 105, ¶ 5/14C-3.

73 ILL. REV. STAT. CH. 105, ¶ 5/14C-3.

74 ILL. ADMIN. CODE TIT. 23, § 228.15 (A) (B).

75 ILL. ADMIN. CODE TIT. 23, § 228.15 (B).

76 ILL. ADMIN. CODE, TIT. 23, § 228.15 (F).

77 ILL. ADMIN. CODE, TIT. 23, § 228.15 (G) (1).

78 ILL. ADMIN. CODE, TIT. 23, § 228.15 (G) (2) (3).

79 ILL. REV. STAT. CH. 105, ¶ 5/14C-4.

80 ILL. REV. STAT. CH. 105, ¶ 5/14C-4.

81 ILL. REV. STAT. CH. 105, ¶ 5/14C-4.

82 ILL. REV. STAT. CH. 105, ¶ 5/14C-3.

83 ILL. REV. STAT. CH. 105, ¶ 5/14C-3.

84 ILL. REV. STAT. CH. 105, ¶ 5/14C-10.

85 ILL. ADMIN. CODE, TIT. 23, § 228.15 (H).

86 ILL. ADMIN. CODE, TIT. 23, § 228.15 (H).

87 ILL. ADMIN. CODE, TIT. 23, § 228.40 (F) (1).

88 TRANSITIONAL BILINGUAL EDUCATION REGULATIONS. 603 CMR 14.00, § 14.03 (3) (5).

89 TRANSITIONAL BILINGUAL EDUCATION REGULATIONS. 603 CMR 14.00, § 14.03 (8).

90 MASS. GEN. L. ANN. CH. 71A, § 2.

91 TRANSITIONAL BILINGUAL EDUCATION REGULATIONS. 603 CMR 14.00, § 14.03 (10).

92 TRANSITIONAL BILINGUAL EDUCATION REGULATIONS. 603 CMR 14.00, § 14.08.

93 TRANSITIONAL BILINGUAL EDUCATION REGULATIONS. 603 CMR 14.00, § 14.05 (7).

94 TRANSITIONAL BILINGUAL EDUCATION REGULATIONS. 603 CMR 14.00, § 14.05 (4).

95 MASS. GEN. L. ANN. CH. 71A, § 5.

96 TRANSITIONAL BILINGUAL EDUCATION REGULATIONS. 603 CMR 14.00, § 14.12.

97 MASS. GEN. L. ANN. CH. 71A, § 3.

98 MASS. GEN. L. ANN. CH. 71A, § 3.

99 MASS. GEN. L. ANN. CH. 71A, § 3; TRANSITIONAL BILINGUAL EDUCATION REGULATIONS. 603 CMR 14.00, § 14.10 (3).

100 MASS. GEN. L. ANN. CH. 71A, § 2.

101 MASS. GEN. L. ANN. CH. 71A, § 2.

102 TRANSITIONAL BILINGUAL EDUCATION REGULATIONS. 603 CMR 14.00, § 14.05 (15).

103 TRANSITIONAL BILINGUAL EDUCATION REGULATIONS. 603 CMR 14.00, § 14.10 (4).

104 TRANSITIONAL BILINGUAL EDUCATION REGULATIONS. 603 CMR 14.00, § 14.07 (1).

105 MEMORANDUM, FROM MIGUEL A. RUIZ, CHIEF OF THE MICHIGAN BILINGUAL EDUCATION PROGRAM, TO DIRECTORS/COORDINATORS OF SERVICES TO NATIONAL ORIGIN LANGUAGE MINORITIES (AUGUST 15, 1996).

106 MICH. STAT. ANN. § 15.1919(941).

107 DEPARTMENT OF EDUCATION, STATE BOARD OF EDUCATION, RULES, R388.702.

108 DEPARTMENT OF EDUCATION, STATE BOARD OF EDUCATION, RULES, R388.705, (1) (A) (B) (C).

109 DEPARTMENT OF EDUCATION, STATE BOARD OF EDUCATION, RULES, R388.705 (2).

110 DEPARTMENT OF EDUCATION, STATE BOARD OF EDUCATION, RULES, R388.705 (3).

111 MICH. STAT. ANN. § 15.41155 (1) (2).

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112 MICH. STAT. ANN. § 15.41155 (1) (3).

113 MICH. STAT. ANN. § 15.41153 (2).

114 N.J. STAT. ANN. § 18A:35-18 (A).

115 N.J. STAT. ANN. § 18A:35-18 (B).

116 N.J. STAT. ANN. § 18A:35-18 (B).

117 N.J. ADMIN. CODE TIT. 6, § 6:31-1.4 (A).

118 N.J. ADMIN. CODE TIT. 6, § 6:31-1.4 (B).

119 N.J. ADMIN. CODE, TIT. 6, § 6:31-1.10 (A)(B).

120 N.J. STAT. ANN. § 18A:35-19.

121 N.J. ADMIN. CODE, TIT. 6, § 6:31-1.2 (A).

122 N.J. ADMIN. CODE, TIT. 6, § 6:31-1.1.

123 N.J. ADMIN. CODE, TIT. 6, § 6:31-1.2 (B).

124 N.J. STAT. ANN. TIT. 6, § 18A:35-22.

125 N.J. STAT. ANN. TIT. 18A, § 18A:35-22.

126 N.J. STAT. ANN. TIT. 18A, § 18A, § 18A:35-22.1.

127 N.J. STAT. ANN. TIT. 18A, § 18A:35-22.1.

128 N.J. STAT. ANN. TIT. 18A, § 18A:35-22.1.

129 N.J. STAT. ANN. TIT. 18A, § 18A:35-19.1.

130 N.J. STAT. ANN. TIT. 18A, § 18A:35-19.2.

131 N.J. ADMIN. CODE, TIT. 6, § 6:31-1.10 (D).

132 N.J. ADMIN. CODE, TIT. 6, § 6:31-1.11 (B) (C).

133 N.J. ADMIN. CODE, TIT. 6, § 6:31-1.14 (A) (B).

134 N.M. STAT. ANN. § 22-23-6. NEW MEXICO STATE DEPARTMENT OF EDUCATION: GUIDELINES FOR COMPLIANCE, FEDERAL AND STATE LAW, P.11 (1994-95).

135 NEW MEXICO STATE DEPARTMENT OF EDUCATION: GUIDELINES FOR COMPLIANCE, FEDERAL AND STATE LAW, P. 11 (1994-95).

136 NEW MEXICO STATE DEPARTMENT OF EDUCATION: GUIDELINES FOR COMPLIANCE, FEDERAL AND STATE LAW, P. 8 (1994-95).

137 NEW MEXICO STATE DEPARTMENT OF EDUCATION: GUIDELINES FOR COMPLIANCE, FEDERAL AND STATE LAW, P. 9 (1994-95).

138 SBE REGULATION NO. 75-19, (I)(II) (DEC. 4, 1975).

139 N.M. STAT. ANN. § 22-23-5.

140 SBE REGULATION NO. 75-19, VIII.

141 NEW MEXICO STATUTES. CHAPTER 22, ARTICLE 23, BILINGUAL MULTICULTURAL EDUCATION. 22-23-5; SBE REGULATION NO. 75-19, V.

142 SBE REGULATION NO. 75-19, IX.

143 TELEPHONE CONVERSATION WITH ANGELINA KOLLASCH OF THE NEW MEXICO STATE DEPARTMENT OF EDUCATION, BILINGUAL MULTICULTURAL EDUCATION UNIT. DECEMBER 10, 1996.

144 NEW MEXICO STATE DEPARTMENT OF EDUCATION: GUIDELINES FOR COMPLIANCE, FEDERAL AND STATE LAW. 1994-95. P. 20. THIS PAGE CITES TITLE VI OF THE CIVIL RIGHTS ACT OF 1964. I BELIEVE THAT THE NEW MEXICO DEPARTMENT OF EDUCATION IS COMBINING, AND MISTAKENLY APPLYING, THE CIVIL RIGHTS ACT AND THE FEDERAL BILINGUAL EDUCATION ACT. THIS MISUNDERSTANDING OF FEDERAL LAW IS WORKING IN FAVOR OF PARENTS AT THIS TIME. UNDER THE CIVIL RIGHTS ACT, STATES MUST PROVIDE LANGUAGE-MINORITY PARENTS WITH THE SAME INFORMATION THEY PROVIDE OTHER PARENTS IN A LANGUAGE THEY CAN UNDERSTAND. UNDER THE FEDERAL BILINGUAL EDUCATION ACT ONLY SPECIFICALLY FUNDED FEDERAL PROGRAMS (OF WHICH THERE

## Notes continued

ARE ABOUT 200 NATIONWIDE) MUST GRANT PARENTS A CHOICE ABOUT PARTICIPATION IN THE PROGRAM. NEW MEXICO IS UNDER NO FEDERAL OBLIGATION TO GRANT PARENTS A CHOICE OVER PROGRAM TYPE.

145 COMMISSIONER'S REGULATIONS PART 117.3 (C) (4).

146 COMMISSIONER'S REGULATIONS PART 154.2 (A) (4).

147 N.Y. EDUC. § 3204 (2-A); COMMISSIONER'S REGULATIONS PART 154.5 (B) (1).

148 N.Y. EDUC. § 3204 (2).

149 N.Y. EDUC. § § 3204 (2A)(2)(3).

150 N.Y. EDUC. § 3204 (2).

151 N.Y. EDUC. § 3204 (3).

152 N.Y. EDUC. § 3204 (7).

153 *ASPIRA OF NEW YORK* V. *BOARD OF EDUCATION OF THE CITY OF NEW YORK*. 72 CIV. 4002.

154 N.Y. EDUC. § 3204 (3).

155 COMMISSIONER'S REGULATIONS PART 154.5 (F) (1).

156 COMMISSIONER'S REGULATIONS PART 154.5 (F) (2) (I).

157 COMMISSIONER'S REGULATIONS PART 154.5 (F) (2) (I).

158 COMMISSIONER'S REGULATIONS PART 154.5 (F) (2) (II).

159 COMMISSIONER'S REGULATIONS PART 154.5 (F) (3).

160 TEX. EDUC. CODE ANN. § 29.051.

161 TEX. EDUC. CODE ANN. § 29.053(C).

162 PHONE CONVERSATION WITH MS. ELSA DELVALLE-GASTER OF THE TEXAS DEPARTMENT OF EDUCATION OFFICE OF BILINGUAL EDUCATION NOVEMBER 4, 1996.

163 TEX. EDUC. CODE ANN. § 29.051.

164 TEX. ADMIN. CODE TIT. 19, § 89.1205(A). PHONE CONVERSATION WITH MS. ELSA DELVALLE-GASTER OF THE TEXAS DEPT. OF EDUC. OFFICE OF BILINGUAL EDUC. NOVEMBER 4, 1996.

165 TEX. ADMIN.CODE TIT. 19, § 89.1205(C)(D).

166 TEX. EDUC. CODE ANN. § 29.054.

167 TEX. EDUC. CODE ANN. § 29.056(G).

168 TEX. ADMIN. CODE TIT. 19, § 89.1225(J).

169 TEX. EDUC. CODE ANN. § 29.056(H).

170 TEX. ADMIN. CODE TIT. 19, § 89.1210(A).

171 TEX. ADMIN. CODE TIT. 19, § 89.1210(E).

172 TEX. ADMIN. CODE TIT. 19, § 89.1265(A)(B).

173 TEX. EDUC. CODE ANN. § 29.056(A).

174 TEX. EDUC. CODE ANN. § 29.064.

175 TEX. ADMIN. CODE TIT. 19, § 89.1215, (B).

176 TEX. EDUC. CODE ANN. § 29.056(A)(1).

177 TEX. ADMIN. CODE TIT. 19, § 89.1225(F)(2)(B).

178 TEX. ADMIN. CODE TIT. 19, § 89.1220(K).

179 TEX. EDUC. CODE ANN. § 29.056(D).

180 TEX. ADMIN. CODE TIT. 19, § 89.1240(A).

181 TEX. ADMIN. CODE TIT. 19, § 89.1220(L).

182 TEX. ADMIN. CODE TIT. 19, § 89.1265(C).